K

1952.

File No. Bills I/1952

Legal Deptt

B. BRANCH

Subject:—

L D. Vol. No

Bills I of 1952

File No. Bills I/1952.

Gen. 194

Office of the R.L.A.

A requisite draft Bill is sent herewith. The Bill does not require any sanction or recommendation. As the subject-matter of the Bill fall mainly under entry 2 in the Concurrent Legislative List in the Seventh Schedule to the Constitution, the Government of India will have to be consulted before the Bill is published.

Sd. J.R.Dhurandhar.
21/5

Remembrancer of Legal Affairs.

U.R. to H.D. No. 8075, dated the 22nd May 1951.

VGP. 2-7-56.

In his D.O. letter dated 27th January 1949, one of the suggestions of the Chief Justice was that section 411-A of the Criminal Procedure Code may be applied to the City Sessions Court. That suggestion was accepted and a draft bill was prepared. The Judges of the High Court including the Chief Justice are now of opinion that sections 306 and 307 of the Criminal Procedure Code should apply to the City Sessions Court. Apart from the difficulties pointed out by the Chief Justice in paragraph 2 of his D.O. at p. 27 ante, in paragraph 2 he has stated that so far as jury trials are concerned, there should be uniformity over the whole of the State. There is considerable force in this argument. During the British period the City and island of Bombay as a Presidency town and enjoyed peculiar previleges owing to historical reasons. The law administered in these towns was more on the lines of the English Law and was in many ways different from that followed in the other parts of the State. Now the limits of the City have been considerably extended and part and population which did not enjoy the said previleges have been incorporated in the Greater Bombay area and have been brought under the jurisdiction of the City Court. The presidings Judge in the City Sessions Court is no longer a Judge of the High Court. In some of the cases recently tried by the City Sessions Court this difference has been apparent. Kishori's case in which the trial had to be held three times is the case in point. Whatever may be the grounds of differentiation in respect of the administration of law in Presidency towns and other parts of the country the said grounds do not at present exist and an attempt ought to be made to make the law as far as possible ~~perfectly~~ uniform throughout the State. It will therefore be advisable to accept the suggestions of the High Court and so far as Criminal cases are concerned, it will be desirable to put the City Sessions on the same footing as the Sessions Courts in districts.

Sd. J.R.Dhurandhar.
25/7

Remembrancer of Legal Affairs.

Ltr to I.T.D. No. 11844 dt. 25-7-1951.

In his D.O. letter dated 27th January 1949, one of the suggestions of the Chief Justice was that section 411-A of the Criminal Procedure Code may be applied to the City Sessions Court. That suggestion was accepted and a draft bill was prepared. The Judges of the High Court including the Chief Justice are now of opinion that sections 306 and 307 of the Criminal Procedure Code should apply to the City Sessions Court. Apart from the difficulties pointed out by the Chief Justice in paragraph 2 of his D.O. at p. 27 ante, in paragraph 3 he has stated that so far as jury trials are concerned, there should be uniformity over the whole of the State. There is considerable force in this argument. During the British period the City and island of Bombay as a Presidency town and enjoyed peculiar previleges owing to historical reasons. The law administered in these towns was more on the lines of the English Law and was in many ways different from that followed in the other parts of the State. Now the limits of the City have been considerably extended and part and population which did not enjoy the said previleges have been incorporated in the Greater Bombay area and have been brought under the jurisdiction of the City Court. The presidings Judge in the City Sessions Court is no longer a Judge of the High Court. In some of the cases recently tried by the City Sessions Court this difference has been apparent. Kishori's case in which the trial had to be held three times is the case in point. Whatever may be the grounds of differentiation in respect of the administration of law in Presidency towns and other parts of the country the said grounds do not at present exist and an attempt ought to be made to make the law as far as possible ~~perfectly~~ uniform throughout the State. It will therefore be advisable to accept the suggestions of the High Court and so far as Criminal cases are concerned, it will be desirable to put the City Sessions on the same footing as the Sessions Courts in districts.

Sd. J.R.Dhurandhar.
25/7

Ltr to H.D. No. 11844 dt. 25-7-1951. Remembrancer of Legal Affairs

No. 2163
Legal Department,
Bombay Castle (Bombay No.1.) 11th February 1952.

From

Shri J.R.Dhurandhar,
Additional Secretaty to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Code of Criminal Procedure (Bombay Amendment) Bill, 1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellancy the Governor the authentic copy of the Code of Criminal Procedure (Bombay Amendment) Bill, 1952, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 16th and the 24th January 1952, respectively.

2. The subject-matter of the Bill falls under entry 2 in list III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnnat to the provisions of the Code of Criminal Procedure, 1898, which is an existing law relating to entry 2 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President wiyh reference to article 254(2) of the Constitution.

3. I also forward herewith six copies of each of the

		items
1.	Bill as introduced in the Bombay Legislative Assembly with the State ment of Objects and Reasons.	Nos. 1 and 2

2. Bill as readd for the third time and apssed by the Bombay Legislative Council.	and two
3. Extracts from the proceedings of the Bombay Legislative Assemblt dated the 15th January 1952 and of the Bombay Legislative Council dated the 24th January 1952.	copies of item No 3,c

the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

Sd. J.R.Dhurandhar.
11/2

Additional Secretary to Government.

Copy forwarded with compliments to:-

The Secretary to the Government of Bombay,
Home Department.

VGP. 2-7-56.

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

Additional Secretary to Government.

Legal Department.

Raj Bhavan,
BOMBAY 6. March 11 1952.

Subject: The Code of Criminal Procedure (Bombay Amendment) Bill, 1952.

Sir,

With reference to the correspondence ending with your letter No. 3160, dated the February 27, 1952, I am directed to forward herewith the authentic copy of the Code of Criminal Procedure (Bombay Amendment) Bill, 1952 iwthwith the President's assent signified thereon.

Yours faithfully,

Sd.

for Secretary to the Governor
cof Bombay.

VGP. 2-7-56.

Publication of the Code of Criminal Procedure (Bombay Amendment) Act, 1952.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 4048
Bombay Castle 15th March 1952.

Letter to the Secretary to the Governor, No. 2163 dated the 11th February 1952.

Letter from the Secretary to the Governor, No. G.S. 725, dated the 11the March 1952.

"With reference to the correspondence ending with your letter No. 3160 dated February 27, 1952 I am directed to forward herewith the authentic copy of the Code of Criminal Procedure (Bombay Amendment) Bill 1952, with the President's assent signified thereon."

RESOLUTION: The law should be published as Bombay Act No. VI of 1952 in the Bombay Government Gazette dated the 15th March 1952.

2. The Act should be translated into Marathi, Gujarati, Kannad and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

S.L.Chawdhari.

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Home Department),
The Home Department,
The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat, Bombay.
) with a copy of the Act.

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* With four extra copies of the Act.

VGP. 2-7-56.

A requisite draft Bill is sent herewith.

Clause 2 of the Bill.- In regard to the question regarding the position of the allottees after the expiration of the Act, the High Court following the Supreme Court's decision has held that the orders made under the Act cannot be of indefinite duration in spite of the provisions of sub-section (2) of section 3 of the Act. It would, therefore be for the R.D. to decide whether a provision should not be inserted in the Act providing that after the expiration of the Act, the orders made under the Act or deemed to have been made under the Act shall continue in operation for a definite period and the provisions of the Act applicable to such orders shall continue to apply. A provision to that effect has been inserted in clause 2 of the Bill.

Clause 4 of the Bill. The judgement of the High Court indicates that the High Court desires that the appeals should lie to the City Civil Court. As the pecuniary jurisdiction of the City Civil Court is Rs. 25,000 it would be more appropriate to provide that the appeals where the amount of compensation claimed does not exceed Rs. 25,000 should lie to the City Civil Court while those in which the claim exceed Rs. 25,000 should lie to the High Court. An amendment to section 8 of the Act to that effect has been inserted. Under the proposed amendment in the appeals, if any, pending in the High Court on the date of the passing of the Act will be continued and disposed of in the High Court. The High Court should be consulted on this point.

The subject-matter of the Bill falls under entries 3, 18, 36 and 66 in List I and entry 45 in List III in the Seventh Schedule to the Constitution. It would be necessary to reserve the Bill for the consideration of the President under Article 31(3) of the Constitution.

Sd. J.R.Dhurandhar.
16/11

Remembrancer of Legal Affairs.

N.B. to R.D. No. 18345 dated the 17th Nov. 1951.

No. 2224.
Legal Department.
Bombay Castle (Bombay No. 1.) 12th February 1952.

From

Shri J.R.Dhurandhar.
Additional Secretaryt to the Government of Bombay

To

The Secretary to the Governor of Bombay.

Subject : The Bombay Land Requisition (Amendment) Bill, 1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellancy the Governor the authentic cópy of the Bombay Land Requisition (Amendment) Bill, 1952 which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 16th and the 24th January 1952, respectively.

2. The subject-matter of the Bill falls under entries 3,18,36 and 66 in List II and entries 6, 42 and 45 in List III in the Seventh Schedule to the Consitution of India. Sub-section (3) of the section 6 of the Bombay Land Requisition Act, 1948, prohibits a land lord which expression under section 4(2) includes a tenant, from letting his premises without the permission of the State Government for a period of one month. Since this provision is repugnant to the provisions of clause (j) of section 108 of the Transfer of Property Act, 1952 which is an existing law with respect to a matter in the Concurrent Legislative List and since the Bill is intended to extend the life of the Bombay Land Requisition Act, 1948 for a further period of one year, the provisions of the Bill are repugnant to the provisions of the said existing law.

It is, therefore, necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution. It is also necessary to reserve the Bill for the consideration of the President with reference to article 31(2) ~~of the President with reference to article 31(3)~~ of the Constitution.

3. I also forward herewith six copies of the items

		Nos.
1.	Billas introduced in the Bombay Legislative Assembly with the Statement of Objects and easons.	1 and 2and
2.	Bill as read for the third time and passed by the Bombay Legislative Council	two copies
3.	Extracts from the proceedings of the Bombay egislative Assembly dated the 16th January 1952 and of the Bombay Legislative Council dated the 24th January 1952.	of item

No 3. of the papers noted in the margin. The Bill was not referred to a Select Committee.

4. I am to state that the Bombay Land equisition Act, 1948, will cease to be in force on the 1st April 1952 and the present Bill is intended to extend the life of the said Act. It is, therefore, necessary that this Bill should after receiving the assent of the President, be published in the Bombay Government Gazette as an Act on or before the 31st March 1952 It is requested that the Prediedent may be moved to give his assent to the Billbefore the 31st March 1952 and to convey the assnt by telegram as the new Act must come into forceon that date and also to communicate the date on which the assent is given.

Yours faithfully,

Sd. J.R.Dhurandhar.
11/2

Additional Secretary to Government.

VGP. 2-7-56. Copy forwarded to W.C. to Secy. R.D.

ACTS.

Publication of the Bombay Land Requisition (Amendment) Act, 1952.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No 3993
Bombay Castle 14th March 1952.

Letter to the Secretary to the Governor, No. 2224, dated the 12th February 1952.

Letter from the Secretary to the Governor, No. G.S. 699 dated the 10th March 1952.

" With reference to the correspondence ending with your letter No. 3511, dated the March 4, 1952 I am to state that intimation has been received from the Government of India, Ministry of Home Affairs that the President assented to the Bombay Land Requisition (Amendment) Bill 1952, on March 4, 1952"

RESOLUTION :- The law should be published as Bombay Act No. V. of 1952 in the Bombay Government Gazette dated the 14th March 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari Script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay.

Sd.
14/3
K.H. PATHARE.
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Revenue Department),
The Revenue Department,
The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity Bombay,
The Enquiry Officer for the Secretariat, Bombay.

With copy of the Act.

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* With four extra copies of the Act.

Legal Department.

The draft Bill is in order.

Sd. J.R.Dhurandhar.
9/11

Additional Secretary to Government.

U.R. to F.D.No. 38-Confl dated 9th January 1952.

VGP. 2-7-56.

No. 2040
Legln Department,

Bombay Castle (Bombay No 1.) 8th February 1952.

From

Shri J.R.Dhurandhar.
Additional Secretary to the
Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay (First Supplementary)
Appropriation Bill,
1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for the assent of His Excellancy the Governor the authenticcopy of the Bombay (First Supplementary) Appropriation Bill 1952, which was read for the third time and passed by the Bombay Legislative Assembly at its meeting held on the 25th January and returned by the Bombay Legislative Council without recommendations at its meeting held on the 30th January 1952.

2. Pursuant to article 204 read with article 205 of the Constitution of India, the Bill provides for the authorization of payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Bombay to the service of the year ending on the thirty-first day of March 1952. It is not necessary to reserve the Bill for the consideration of the President with reference to article 31 (3), 254(2) or any other article of the Constitution.

3. The date on which His Excellancy the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one copy of each of the items

1.	Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	Nos. 1, 2 and 4 and two copies
2.	Bill as read for the third time and passed by the Bombay Legislative Assembly.	of item No 3 of
3.	Bill as returned by Bbay. Legis. Council	
4.	Extracts from the proceedings of the Bombay Legislative Assembly the dated the 25th January 1952 and of the Bombay Legislative Council dated the 30the January 1952.	the papers noted in the margin

The margin was not referred to a Select Committee.

Yours faithfully,

J.R.Dhurandhar.
8/2

Additional Secretary to Government.

VGP. 2-7-55.

Copy forwarded to Secy. F.D.

E.S.-396

~~Submitted~~

~~The Bombay (First Supplementary)~~

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO

The Secretary to Government,

Legal Department.

Raj Bhavan,
BOMBAY 6; February 11, 1952.

Subject:- The Bombay (First Supplementary) Appropriation Bill 1952.

Sir,

With reference to your letter No. 2040 dated February 8, 1952, I am directed to return herewith the authentic copy of the Bombay (First Supplementary) Appropriation Bill, 1952 with His Excellency the Governor's assent signified thereon.

Yours faithfully,

Sd.

Secretary to the Governor
of Bombay.

VGP. 2-7-56.

ACTS.
Publication of the
Bombay (First Supplementary)
Appropriation Act, 1952.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 2589
Bombay Castle, 13th February 1952.

Letter to the Secretary to the Governor No. 2040 dated the 8th February 1952.

Letter from the Secretary to the Governor, No. 2040 dated 11th February 1952. GS.396

"With reference to your letter No. 2040, dated February 8 1952, I am directed to return herewith the authentic copy of the Bombay (First Supplementary) Appropriation Bill 1952, with His Excellency the Governor's assent signified thereon."

RESOLUTION :- The law should be published as Bombay Act No. I of 1952 in the Bombay Government Gazette dated the 13th February 1952.

2. The Act should be translated into Marathi , Gujarati Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department.

By order of the Governor of Bombay.

SD. S.L.CHAWDHARI.

Deputy Secretary to Government.

To

The Manager , Government Central Press, Bombay (w copy of the Act and with a request that 30 copies of the Act may be forwarded to the Department and 10 copies to the Finance D
The Finance Department,
The Oriental Translator to Government,)
The Bombay Legislature Department)
The Director of Publicity Bombay,)
The Enquiry Officer for the Secretariat, Bombay.

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* With four e copies of